

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking To Revise
Commission General Order Numbers 95 and 128.

Rulemaking 01-10-001

**ADMINISTRATIVE LAW JUDGE'S RULING
DIRECTING THE RAIL OPERATIONS AND REGULATORY
COMMITTEE TO FILE SUPPLEMENTAL JUSTIFICATION
AND EMPIRICAL DATA FOR PROPOSED RULE CHANGE**

Summary

This ruling directs the Rail Operations and Regulatory Committee (ROAR) to file supplemental information justifying its proposed rule change to General Order (GO) 95, Rule 74.4-F by September 5, 2003.

Background

Order Instituting Rulemaking (OIR.) 01-10-001 was initiated by the Commission on October 10, 2001, to strengthen GOs 95 and 128 - two General Orders that are critical to the Commission's role of overseeing the safe operation of electric utilities' facilities. The OIR set forth 13 rule changes proposed by staff and invited parties to file written comments to the staff's proposals and to recommend alternative rule changes.

Comments were received from William P. Adams (Adams), City of Burbank, California Cable Television Association California Municipal Utilities Association, International Brotherhood of Electrical Workers Local Union 1245 AFL-CIO, Modesto Irrigation district, Pacific Bell Telephone Company (Pacific)

and Verizon California California, Inc. (Verizon), Pacific Gas and Electric Company (PG&E), Southern California Edison (Edison), and San Diego Gas & Electric Company (SDG&E).

The following parties filed reply comments responding to the opening comments referenced above: Adams, California Farm Bureau Federation, Consumer Services Division, Pacific, PG&E, SDG&E, and Edison.

On May 7, 2002, an introductory workshop was held at the Commission, and following that workshops were scheduled and hosted throughout the state. The workshops are concluded and a workshop report is being prepared.

The Rail Operations and Regulatory Committee

On July 9, 2003, ROAR, a California Transit Agency committee that represents the six rail transit agencies in California on regulatory matters submitted comments that proposed that GO 95, Rule 74.4-F be modified. ROAR's proposal set forth the existing Rule 74-4F, the proposed changes, and a justification. However, the Commission finds that the justification provides no support that the proposed changes will protect safety.

In addition, the proposed changes themselves are deficient. For example, the reference to "areas that are normally accessible to the general public" is too limiting. The language needs to be more inclusive so that areas other than just street crossings, stations, pedestrian malls, and street-running locations, could also be covered by the General Order. Without going into more detail, the proposed rule changes need to be more carefully drafted so that they clearly protect safety and are inclusive and not self-limiting.

What is of more concern to the Commission, however, is the fact that there is no empirical data to support the proposed changes. Before the Commission can entertain ROAR's proposal, and other interested parties could adequately

respond, ROAR needs to provide more substantiation. In addition to substantiation and empirical data, ROAR should specify construction standards that should be in place, with back-up support and data, as to specifics and the safety history associated with the standards.

If ROAR wishes the Commission to consider its proposed changes to GO 95, Rule 74.4-F, the revised draft proposal, with sufficient justification and supporting empirical data and construction standards, is due September 5, 2003.

IT IS RULED that:

1. The modification to GO 95, Rule 74.4-F proposed by Rail Operations and Regulatory (ROAR) on July 9, 2003, is insufficient for Commission consideration.
2. ROAR may file a revised modification, with justification and supporting data and construction standards by September 5, 2003.

Dated July 30, 2003, at San Francisco, California.

/s/ CAROL A. BROWN

Carol Brown
Administrative Law Judge

CERTIFICATE OF SERVICE

I certify that I have by mail this day served a true copy of the original attached Administrative Law Judge's Ruling Directing The Rail Operations And Regulatory Committee To File Supplemental Justification And Emperical Data For Proposed Rule Change on all parties of record in this proceeding or their attorneys of record.

Dated July 30, 2003, at San Francisco, California.

/s/ JANET V. ALVIAR

Janet V. Alviar

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.